



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

JLP:ddj

Docket No: 4141-99

24 October 2000

CM2- [REDACTED] USNR  
[REDACTED]  
[REDACTED]

Dear PETTY OFFICER [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 24 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by BUPERS 1770 Ser N01M/1072 06 September 2000, a copy of which is attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosure



## DEPARTMENT OF THE NAVY

COMMANDER NAVAL RESERVE FORCE  
4400 DAUPHINE STREET  
NEW ORLEANS, LOUISIANA 70146-5046

IN REPLY REFER TO:  
1770

Ser N01M/1072

SEP 6 2000

From: Commander, Naval Reserve Force  
To: Chairman, Board for Correction of Naval Records

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF CM2 [REDACTED]  
[REDACTED] USNR [REDACTED] DOCKET #4141-99

Ref: (a) DoD 7000.14-R  
(b) SECNAVINST 1770.3B  
(c) MANMED

1. Petty Officer [REDACTED] was authorized a Notice of Eligibility (NOE) for a left inguinal hernia he incurred while participating in Annual Training on 21 March 1999.

2. Commander, Naval Reserve Force (N01M) authorized incapacitation pay for the period of 22 March 1999 through 2 April 1999 minus civilian gross income of \$1,066.40. Defense Finance and Accounting Service (DFAS Code FMB) reviewed and determined that Petty Officer [REDACTED] civilian income exceeded his military pay and allowances and therefore was ineligible to receive incapacitation pay for the period requested.

3. While on an NOE, a Reservist is not authorized reimbursement of vacation leave and sick leave paid by their employer. This is considered income and will be deducted from their full pay and allowances. Additionally, reference (a) authorizes full pay and allowance while a Reservist is on an NOE and therefore drill pay is not paid because they cannot earn more than their counterpart on active duty.

4. Petty Officer [REDACTED] hernia was repaired on 20 April 1999 and subsequently was released, by his physician, to return to his civilian employment on 31 May 1999. Based on this he may be entitled to receive full pay and allowances for the period of 3 April 1999 through 31 May 1999 minus any civilian gross income earned. This office has requested the amount of civilian gross income Petty Officer [REDACTED] received during this period and upon receipt will forward appropriate documentation to DFAS for determination of eligibility for incapacitation pay due him for this period.

Subj: COMMENTS AND RECOMMENDATIONS IN THE CASE OF CM2 [REDACTED]  
[REDACTED] USNR, [REDACTED] DOCKET #4141-99

5. Petty Officer [REDACTED] proceeded with surgery by his civilian physician despite being counseled by his Medical Department Representative and Unit, Leading Chief Petty Officer to wait for authorization from the Military Medical Support Office (MMSO). Petty Officer [REDACTED] failed to obtain prior authorization for his left inguinal repair as required by references (b) and (c) and therefore he is ineligible for reimbursement of civilian medical bills incurred. Furthermore, the Naval Marine Corps Reserve Center, Salt Lake informed this office that Petty Officer [REDACTED] did not provide copies of his medical bills for submission to MMSO and he has transferred to the Air National Guard as of 5 May 2000.

6. My point of contact in this matter is HMC [REDACTED] at commercial (504) 678-5706 or DSN 678-5706.

[REDACTED]  
[REDACTED]  
[REDACTED]  
By direction